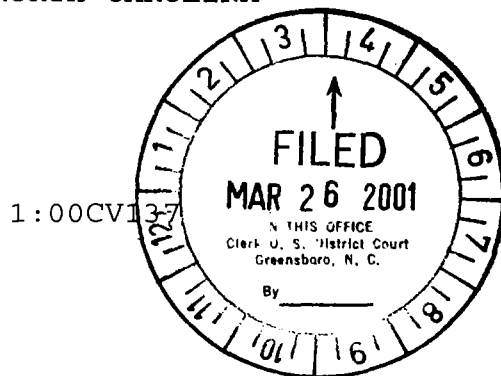


40.

D/MS

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

KENNETH BERNARD ROUSE,)
)
Petitioner,)
)
v.)
)
R.C. LEE, Warden,)
North Carolina Central Prison,)
)
Respondent.)



O R D E R

On January 17, 2001, the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Thereafter, the Court received petitioner's objections and respondent's Citation of New Dispositive Authority.

The Court has appropriately reviewed petitioner's objections and respondent's citation de novo and finds they do not change the substance of the United States Magistrate Judge's rulings which are affirmed and adopted.

IT IS THEREFORE ORDERED that respondent's motion to dismiss this action for being filed after the expiration of the one-year limitation period contained in 28 U.S.C. § 2244(d)(1) (docket no. 6) is granted, that this action is dismissed, and that finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is denied.

March 26, 2001


United States District Judge